
DIGEST

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Honey

HB No. 841

Abstract: Requires the director of the office of workers' compensation administration to order an independent medical examination in certain circumstances. Provides for the prompt reporting of certain information relative to workers' compensation premiums. Provides for the electronic payment of weekly indemnity payments. Provides for an alternate base period and expands unemployment benefits to individuals seeking part-time work and individuals enrolled in an approved training program.

Present law (R.S. 23:1123) provides for the duty of the director to order an independent medical examination by a medical practitioner selected and appointed by the director when a dispute arises as to the condition of an injured employee.

Proposed law retains present law and further requires the director, upon application of any party, to order an independent medical examination when a dispute arises as to the injured employee's capacity to work or his current medical treatment.

Present law (R.S. 23:1172.2) provides that no person or entity acting without malice, fraudulent intent, reckless disregard for the truth, or bad faith shall be liable to another by virtue of the filing of reports or furnishing other information relative to a violation by an employer of the provisions of present law.

Proposed law retains present law but places an affirmative burden on any person, insurer, or members of self-insurance fund who believes that a false, fraudulent, or misleading statement has been knowingly made or has been knowingly omitted with the purpose of affecting the payment of any workers' compensation premium.

Proposed law further requires that such an entity shall report such statement or omission within 60 days to the office of workers' compensation administration, at which time the office shall review such reports and determine which reports merit further investigation.

Proposed law requires the office to provide an independent examination of the facts surrounding the report. Any alleged violations of law disclosed by an independent examination of the facts shall be reported to the appropriate licensing agency and the proper prosecuting authority.

Present law (R.S. 23:1201) states that workers' compensation payments shall be made by mail.

Proposed law retains the mailing of payments as permissive, but allows the electronic transfer of

funds by methods including but not limited to direct deposit and debit cards.

Proposed law provides that if the payer or insurer elects to issue debit cards, the injured worker may opt to have his weekly indemnity payment paid directly into his attorney's trust account.

Proposed law provides that if such an election is made, within 48 hours of each deposit, the payer or insurer shall notify the attorney of the deposit and shall list all claims and amounts included in the deposit.

Present law provides that for injuries occurring before July 1, 2004, and on or after July 1, 2009, the employer operating under the provisions of present law who knowingly employs or knowingly retains in his employment an employee who has a permanent partial disability, as defined in present law, shall be reimbursed from the Second Injury Fund for all weekly compensation payments payable after the first 104 weeks of payments provided they are submitted to the board within one year of approval for reimbursement or within one year of the payment of such weekly compensation payments, whichever occurs later.

Proposed law retains present law but changes the time period from July 1, 2009, to July 1, 2011.

Present law also provides that for injuries occurring between July 1, 2004, and July 1, 2009, an employer who retains in his employment an employee who has a permanent partial disability shall be reimbursed from the Second Injury Fund for all weekly compensation payments payable after the first 130 weeks of payment provided they are submitted to the board within one year of approval for reimbursement or within one year of the payment of such weekly compensation payments, whichever occurs later.

Proposed law retains present law but changes the time period from July 1, 2009, to July 1, 2011.

Present law provides that for injuries occurring before July 1, 2004, and on or after July 1, 2009, an employer operating under the provisions of present law who knowingly employs or knowingly retains in his employment an employee who has a permanent partial disability, as defined in present law, shall be reimbursed from the Second Injury Fund for all death benefit payments payable after the first 175 weeks of payments, provided that death benefits are actually paid by the employer or his insurer under the provisions of present law, and provided that the deceased employee of the employer died as a result of a combination of a preexisting permanent partial disability and a subsequent compensable injury or the employee's death would not have occurred but for the preexisting permanent partial disability. Payments shall be reimbursed provided they are submitted to the board within one year of the approval for reimbursement or within one year of the payment of such death benefits, whichever occurs later.

Proposed law retains present law but changes the time period from July 1, 2009, to July 1, 2011.

Present law also provides that for injuries occurring between July 1, 2004, and July 1, 2009, in the event an employer becomes liable for the payment of death benefits, he shall be entitled to reimbursement for all death benefit payments payable after the first 130 weeks, provided that the payments are actually paid by the employer or his insurer and that the deceased employee died as

a result of a combination of a preexisting permanent partial disability and a subsequent compensable injury or that the employee's death would not have occurred but for the preexisting permanent partial disability. Payments must be submitted to the board for reimbursement within one year of approval for reimbursement or within one year of the payment of such death benefits, whichever occurs later.

Proposed law retains present law but changes the time period from July 1, 2009, to July 1, 2011.

Present law provides that for injuries occurring before July 1, 2004, and on or after July 1, 2009, an employer operating under the provisions of present law who knowingly employs or knowingly retains in his employment an employee who has a permanent partial disability, as defined in present law, shall be reimbursed from the Second Injury Fund for all medical expenses actually paid and payable in accordance with present law.

Proposed law retains present law but changes time period from July 1, 2009, to July 1, 2011.

Present law provides that for injuries occurring before July 1, 2004, and on or after July 1, 2009, upon the board's approval of a claim for reimbursement, the insurer shall immediately certify to the board that the medical reserve has been reduced to no more than \$7,500, and the weekly disability benefits (indemnity) reserve does not exceed 104 weeks of indemnity. In the event of a death claim, the weekly benefits reserve will be no more than 175 weeks.

Proposed law retains present law but changes the time period from July 1, 2009, to July 1, 2011.

Present law provides that for injuries occurring between July 1, 2004, and July 1, 2009, upon the board's approval for a claim for reimbursement, the insurer must immediately certify to the board that the medical reserve has been reduced to no more than \$25,000 and the weekly disability benefits reserve does not exceed 130 weeks of indemnity. For death claims, the weekly benefits reserve will be no more than 130 weeks. LIGA shall be entitled to reimbursement, but only to the extent of the proportion of the Second Injury Fund assessment paid by insurance companies.

Proposed law retains present law but changes the time period from July 1, 2009, to July 1, 2011.

Present law (R.S. 23:1472(4)) defines "base period" as the first four of the last five complete calendar quarters immediately preceding the first day of an individual's benefit year.

Proposed law retains present law and establishes an "alternate base period" as the last four completed calendar quarters immediately preceding the first day of an individual's benefit year.

Proposed law (R.S. 23:1600.1) provides for the eligibility of an individual who is available for, seeks, applies for, or accepts part-time work if the claim is based on part-time employment and the individual is actively seeking similar working conditions that existed during the individual's base period.

Present law (R.S. 23:1602(3)) provides that any benefit paid to individuals, who are in approved

training with the approval of the administrator, shall not be charged to the experience rating record of base-period employers.

Proposed law (R.S. 23:1602(4)) provides for the payment of 26 weeks of additional unemployment benefits to individuals enrolled in and making satisfactory progress in a state or federal approved training program. An individual shall receive a weekly benefit equal to his previous weekly unemployment compensation.

Proposed law prohibits the payment of additional benefits for any week during which the individual receives training allowances or stipends. Proposed law defines training allowances as discretionary use, cash-in-hand payments available to the individual to be used as the individual sees fit, but does not mean direct or indirect compensation for training costs, such as the costs of tuition, books, and supplies.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 23:1123, 1172.2(E), 1201(A), 1378(A)(1), (2), (3)(a)(intro. para.) and (b)(intro. para.), and (7) and 1472(4); Adds R.S. 23:1600.1 and 1602(4); Repeals R.S. 23:1201.1)

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Makes technical changes.
2. Adopts alternate base period.
3. Expands unemployment compensation benefits to individuals seeking part-time work.
4. Provides for an extension in unemployment compensation benefits for an individual enrolled in an approved training program.